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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/189,559	11/11/1998	JOHN J. MCMILLAN	WISO-0101-PU	5614

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EXAMINER

CHANNAVAJALA, SRIRAMA T

ART UNIT

PAPER NUMBER

2177

DATE MAILED: 03/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

HG

Office Action Summary

Application No.

09/189,559

Applicant(s)

MCMILLAN ET AL.

Examiner

Srirama Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2002[RCE].
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to RCE

CONTINUED EXAMINATION UNDER 37 CFR 1.114 AFTER FINAL REJECTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission of "Preliminary Amendment REMARKS" filed on March 4, 2002, has been entered, paper no. # 12.

2. Examiner acknowledges Applicant's RCE Remarks filed on March 4, 2002, paper no. # 12.

3. Examiner acknowledges Applicant's Amendment filed on July 30, 2001, paper no. # 5

4. Claims 1-32 are presented for examination, Claims 1,16, 18 are independent Claims.

5. Claims 1, 16, and 18 have been amended, paper no. # 5.

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Drawings

6. The Drawing filed on 11/11/1998, are approved by the Draftsperson under 37CFR 1.84 or 1.152.

Information Disclosure Statement

7. Examiner has considered PTO-1449, paper no. # 6, a copy of the PTO- 1449 herewith enclosed with office action paper no. # 7.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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8. Claims 1, 5-8, 14-18, 22-25, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stupek, Jr. et al., [hereafter Stupek], US Patent No. 5586304 in view of Burns et al., [hereafter Burns], US Patent No. 6018747.

9. As to Claims 1, 16, and 18, Stupek details a system which including 'determining changes made to a computer system's file and other shared resources during installation of at least one application' [col 1, line 55-67, col 2, line 1, line 12-17, fig 5B], 'computer system to obtain change information' [col 6, line 56-67], examiner interpreting change information to be equivalent to DESCRIP.DB of Stupek, description database stores for example package number, record count version number etc., as detailed in fig. 5B; 'processing the change information to determine which files and shared resources conflict with one another to obtain conflict information' [col 7, line 1-24], 'storing the conflict information in a database of interrelated tables' [col 7, line 32-37], examiner interpreting database to be equivalent to Stupek's fig 5C, element 29, also, it is inherent to store errors or warnings or conflicts into database because, Stupek specifically teaches comparison service, also storing the comparison results , see fig 7B, elements 244-250. It is noted, however, Stupek does not specifically detail the claimed limitation 'change information which represents actual changes', 'conflict information', although Stupek teaches for example comparison service in relation with the version upgrade as detailed in fig 5C, col 7, line 15-24. On the other hand, Burns teaches the claimed feature 'change information which represents actual changes' [col 3, line 42-46, 61-63, col 4, line 48-50, fig 3], examiner interpreting change information

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which represents actual changes corresponds to Burns's delta file because, delta files represents changes between versions as detailed in col 3, line 61-63, fig 3, also because, Burns specifically teaches for example detecting conflict between versions, and generating a delta file that represents actual change(s).

Therefore, it would have been obvious one of the ordinary skill in the art at the Time of the invention to incorporate the teachings of Burns into the automatic computer upgrading system of Stupek because they are both directed to updating versions of computer software, more specifically comparing versions [see Stupek fig 5A, fig 9, element 59, col 1, line 18-20, col 2, line 24-31; Burns: Abstract, fig 3] and are both from the same field of endeavor. One of ordinary skill in the art at the time of the invention would have been motivated to combine the references because that would have allowed users of Stupek's computer upgrading system to modify Stupek's upgrade database fig 9, to incorporate delta file which determine and control actual conflict or change(s) or differences between two versions as suggested by Burns [fig 3], bringing the advantage of first detecting conflict between version(s) [see Burns col 5, line 14-25] second generating a delta file that exclusively represents difference between version(s) [see fig 3, col 4, line 48-50], thus improving overall software updating of version(s) reliability and versatility of the system.

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10. As to Claims 5 and 22, Stupek details a system which including 'driver conflict information' [see fig 4, element 32, col 4, line 21-30]

11. As to Claims 6 and 23, Stupek details a system which including 'data source conflict' [see col 5, line 54-67], specifically, job status is an indication whether or not error free.

12. As to Claims 7 and 24, Stupek details a system which including 'service conflict' [see figs 5A-5D, fig 6, element 47a - 47c, col 7, line 49-64].

13. As to Claims 8 and 25, Stupek details a system which including 'device conflict' [see fig. 1, element 10, col 3, line 49-63], more specifically, Stupek teaches automatically analyzing and executing the upgrades and also details upgrade comparisons see col 4, line 5-12.

14. As to Claims 14, 17 and 31, Stupek details a system which including 'resolving includes the step of generating an installer from the information stored in the database' [col 4, line 5-13, line 38-43].

15. As to Claims 15 and 32, Stupek details a system which including 'at least one of the tables has a conflict field for storing' [fig 4, element 34, details status field, fig 8, element 324 details storing the status results, col. 8, line 55-58].

16. Claims 2-4, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stupek, Jr. et al., [hereafter Stupek], US Patent No. 5586304 , Burns et al., [hereafter Burns], US Patent No. 6018747 as applied to claims 1, 18 above, and further in view of Shipley, US Patent No. 5634114.

17. As to Claims 2 and 19, Stupek and Burns do not specifically teaches 'DLL file conflict', examiner notes that DLL or dynamic link library file(s) are well known in the art for example one of the feature of Microsoft Windows family of operating systems and OS/2 that allows executable routines stored separately as files with DLL extensions and to be loaded only when needed by a program. Shipley details a system which including 'DLL file conflict' [see col 3, line 32-50], examiner interpreting DLL file conflict is to be equivalent to comparing DLL version number in a table and if version matched, "preferred version OK" flag is a kind of check as detailed in col 3, line 42-45.

It would have been obvious one of the ordinary skill in the art at the time of the applicant's invention to incorporate the teachings of Shipley into the automatic computer upgrading system of Stupek, Burns's updating of computer files based on versions because they are directed to updating versions of computer software, more specifically comparing versions [see Stupek fig 5A, fig 9, element 59, col 1, line 18-20, col 2, line 24-31; Burns: Abstract, fig 3] , Shipley's comparing version(s) [see Abstract], and are from the same field of endeavor. One of ordinary skill in the art at the time of the invention would have been motivated to have combined the references because that would have allowed users of Stupek, Burns computer software updating system(s) to

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control which relative comparing the versions of DLL and detecting DLL conflict or errors or flags allows to prevent run-time errors within the application program due to version changes, suggested by Shipley [see col 3, line 52-62], at the same time generating delta file represents specifically only the differences between versions as suggested by Burns [see col 3, line 62-63, fig 3] maintaining the upgrade information indicating the changes from the previous versions of Stupek [see col 2, line 28-31], improving the reliability and versatility of the system.

18. As to Claims 3-4 and 20-21 Stupek details for example resource upgrades, including packages, and upgrade objects as detailed in fig 1, also details results directory and status data as detailed in fig 2, elements 73 and 75. Shipley details setting version flag to preferred version as detailed in fig 2. In general, Registry is commonly well known in the art as a central hierarchical database in operating system like Windows 95 used to store information necessary to configure the system for one or more users, applications and hardware devices. Again Shortcuts or commands are well known in the art for example "print command is generally known as Ctrl+P; Copy is Ctrl+C; Paste is Ctrl+V; Cut is Ctrl+X. Therefore, Registry and Registry errors, Shortcut or commands are inherent aspects of both Stupek and Shipley's invention.

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19. Claims 9-13, 26- 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stupek, Jr. et al., [hereafter Stupek], US Patent No. 5586304, Burns et al., [hereafter Burns], US Patent No. 6018747 as applied to claims 1, 18 above, and further in view of Choye et al., [hereafter Choye], US Patent No. 5842024.

20. As to Claims 9-13, Stupek and Burns do not specifically detail 'Microsoft Windows Installer component conflict, autoexec.bat conflict, config.sys conflict, INI changes conflict, path conflict', although Stupek does detail for example upgrade installer as detailed in fig 1, element 17, col 4, line 38-43, a comparison service elements 47a-47c as detailed in fig 6, col 8, line 27-30. Choye teaches 'Microsoft Windows Installer component conflict' [col 4, line 55-60, col 5, line 4-19, line 20-28] 'autoexec.bat conflict' [col 5, line 4-19], 'config.sys conflict' [col 5, line 4-19], 'INI changes conflict' [col 5, line 4-19], examiner notes that In DOS and Windows operating system, the file extension that identifies an initialization file contains user preferences and startup information about the application program, therefore, it is inherent aspect of Choye's teachings because, Choye teaches for example autoexec.bat, config.sys comparing with the original contents as detailed in col 3, line 25-30, col 5, line 4-28; 'path conflict' [col 3, line 25-30, col 4, line 14-20, col 5, line 20-28].

It would have been obvious one of the ordinary skill in the art at the time of the applicant's invention to combine the concepts taught by Choye with the system of Stupek and Burns because a modular or application approach of installing Microsoft Windows Installer component, autoexec.bat, config.sys, INI, path allows to compare

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any changes and implementing changes through SCRIPT.EXE of Choye in the same block of Stupek allowing upgrade information in particular version(s) and importance of the change(s) as suggested by Stupek [see col 2, line 24-31] and updating version files by way of creating delta files to represent changes between versions [see Burns, fig 3, col 3, line 61-63], thus improving the reliability and versatility of the system.

21. The elements of Claims 26-30 are rejected in the analysis above and these Claims are rejected on that basis.

Response to Arguments

Applicant's arguments filed on March 04, 2002 paper no. # 12, with respect to Claims 1-32 have been fully considered but they are not deemed to be persuasive. For the Examiner's response to the Applicant's arguments, see the discussion below:

22. Applicant argument a) In page 2, line 18-21 "each of the above noted prior art references misses the mark of the present invention as claimed in independent claims 1, 16, 18 which specifically claim and particularly point out that "change information represents actual changes made to a computer system's file...; b) In page 3, line 10-12, there is no teaching in either Stupek, Jr. et al. or Burns, et al. to determine change information which represents actual changes....

As to the argument (a and b) Examiner rejected independent claims 1,16,18 unpatentable over Stupek et al in view of Burns et al. In the Office action, examiner stated that Stupek prior art does not specifically teach "change information which represents actual changes", although Stupek teaches for example comparison service in relation with the version upgrade as detailed in fig 5C, col 7, line 15-24. On the other hand, Burns teaches the claimed limitation "change information which represents actual changes" [see col 3, line 42-46, line 61-63, col 4, line 48-50, fig 3], Burns teaching including delta file [see fig 3], further delta files represents changes between versions as detailed in col 3, line 61-63, fig 3. Therefore, Burns teaches 'change information which represents actual changes'.

23. Argument c) In page 3, line 3-4, "there is no teaching or suggestion to combine the teachings of Stupek, Jr. et al. and Burns, et al.

As to the argument c) Examiner disagree with the applicant because, firstly Stupek is directed to upgrading information that identifies the later version and features of the later version(s) see col 1, line 59-62, secondly, upgrade information may also include an indication of importance of change from the old version(s) to the current version(s). On the other hand, Burn teaches for example creating delta files, which represent the changes between versions [see col 3, line 61-63]. Both Stupek and Burns are directed to updating versions of computer software, more specifically

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comparing versions [see Stupek fig 5A, fig 9, element 59, col 1, line 18-20, col 2, line 24-31;;Burns, Abstract, fig 3].

One of ordinary skill in the art at the time of the invention would have been motivated to combine the references because that would have allowed users of Stupek's computer upgrading system to modify Stupek's upgrade database fig 9, to incorporate delta file which determine and control actual conflict or change(s) or differences between two versions as suggested by Burns [fig 3], bringing the advantage of first detecting conflict between version(s) [see Burns col 5, line 14-25] second generating a delta file that exclusively represents difference between version(s) [see fig 3, col 4, line 48-50], thus improving overall software updating of version(s) reliability and versatility of the system.

This is a Request for Continued Examination [RCE] of applicant's earlier Application No. 09/189,559. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case.

See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

The prior art made of record

- a. US Patent No. 5586304
- b. US Patent No. 5842024
- c. US Patent No. 5634114
- d. US Patent No. 6018747

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- e. US Patent No. 6145056
- f. US Patent No. 6154878
- g. US Patent No. 5956513
- h. US Patent No. 5903897
- i. US Patent No. 5119377
- j. US Patent No. 5347518
- k. US Patent No. 6119246
- l. US Patent No. 5655154
- m. US Patent No. 5991774
- n. WO 98/40807
- o. Kuen et al., A difference-based version model for
OODBMS, IEEE 1998
- p. Seemann et al., Visualization of differences between
versions of object software, March 1998.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Srirama Channavajjala whose telephone number is (703)308-8538. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM Eastern Time. The TC2100's Customer Service number is (703)306-5631.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene, can be reached on (703)305-9790. The fax phone numbers for the organization where the application or proceeding is assigned are as follows:

703/746-7238	(After Final Communication)
703/746-7239	(Offical Communications)
703/746-7240	(For Status inquiries, draft communication)
(703)308-6607	(Art Unit)

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)305-9600.



Srirama Channavajjala
Patent Examiner.
March 8, 2002.



JOHN BREENE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100